

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

AMERICAN CIVIL LIBERTIES UNION,
et al.,

Plaintiffs,

v.

ALBERTO R. GONZALES, in his official
capacity as Attorney General of the United
States,

Defendant.

Civil Action No. 98-CV-5591

DEFENDANT'S SUPPLEMENTAL RESPONSES
TO PLAINTIFFS' INITIAL INTERROGATORIES

Defendant Alberto R. Gonzales, in his official capacity as Attorney General of the United States, hereby submits his supplemental responses to Plaintiffs' Initial Interrogatories.

INT. G. Identify any "digital certificate" within the meaning of COPA known to you that can be used to verify age.

Defendant has not reached any determination that "digital certificates" are available that satisfy the legal standard for an affirmative defense under COPA. Defendant will supplement this response as relevant information becomes available pursuant to Federal Rule of Civil Procedure 26(e).

INT. H. Identify any "other reasonable measures that are feasible under available technology" within the meaning of section 213(c)(1)(C) of COPA that can be used as a successful affirmative defense to prosecution under COPA under section 231(a)(1).

Defendant has not reached any determination about what "other reasonable measures" are available to satisfy the legal standard for an affirmative defense under COPA. Defendant will supplement this response as relevant information becomes available pursuant to Federal Rule of

Civil Procedure 26(e).

INT. I. Identify any AVS products known to you that can be used to establish a successful affirmative defense within the meaning [of] section 231(c) of COPA to prosecution under section 231(a)(1) of COPA.

Defendant has not reached any determination about what "AVS products" are available that satisfy the legal standard for an affirmative defense under COPA. Defendant will supplement this response as relevant information becomes available pursuant to Federal Rule of Civil Procedure 26(e).

INT. Q. State whether any speech on the Plaintiffs' web sites is "harmful to minors" under the definition in COPA and identify any such speech.

Defendant has reviewed various web pages cited by the following Plaintiffs in their responses to Defendant's Interrogatory 13 and/or in the Amended Complaint as the pages existed on January 3 and 4, 2006:

Lawrence Ferlinghetti, City Lights Bookstore (www.citylights.com)

Patricia Nell Warren, Wildcat International/Wildcat Press
(www.wildcatintl.com/press)

Addazi, Inc. d/b/a Condomania (www.condomania.com)

Free Speech Media, LLC and Public Communicators, Inc. (www.freespeech.org)

Aaron Peckham d/b/a Urban Dictionary (www.urbandictionary.com)

Philadelphia Gay News (www.epgn.com)

Powell's Bookstores (www.powells.com)

Sexual Health Network, Inc. (www.sexualhealth.com)

Defendant's preliminary assessment is that a court or jury is unlikely to find beyond a reasonable doubt that the specific web pages referenced above violate COPA, because, inter alia, the pages

lack at least one of the critical elements of the statute—they do not “taken as a whole, lack[] serious literary, artistic, political, or scientific value for minors.” 47 U.S.C. § 231(e)(6)(C); *see also* S. REP. NO. 105-225, at 12-13 (1998) (“On this third prong, the Committee intends that the material be taken as a whole and be considered in the context of serious value as to minors. This definition ensures that the bill may not be construed as to restrict access to public health information, art, literature, and political information.”). Defendant will supplement this response pursuant to Federal Rule of Civil Procedure 26(e).

Dated: January 27, 2006

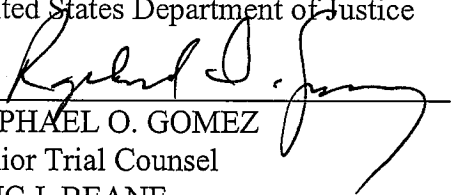
Respectfully submitted,

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